

House File 2438 - Introduced

HOUSE FILE 2438
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 647)

A BILL FOR

1 An Act relating to the collection of sales tax for deposit in
2 the secure an advanced vision for education fund and to the
3 use of tax revenue from the secure an advanced vision for
4 education fund.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 423.2, subsection 11, paragraph b,
2 subparagraph (3), Code 2018, is amended to read as follows:

3 (3) Transfer one-sixth of the remaining revenues to the
4 secure an advanced vision for education fund created in section
5 423F.2. This subparagraph (3) is repealed ~~December 31, 2029~~
6 January 1, 2050.

7 Sec. 2. Section 423.2, subsection 14, Code 2018, is amended
8 to read as follows:

9 14. The sales tax rate of six percent is reduced to five
10 percent on January 1, ~~2030~~ 2050.

11 Sec. 3. Section 423.5, subsection 5, Code 2018, is amended
12 to read as follows:

13 5. The use tax rate of six percent is reduced to five
14 percent on January 1, ~~2030~~ 2050.

15 Sec. 4. Section 423.43, subsection 1, paragraph b, Code
16 2018, is amended to read as follows:

17 b. Subsequent to the deposit into the general fund of
18 the state and after the transfer of such revenues collected
19 under [chapter 423B](#), the department shall transfer one-sixth of
20 such remaining revenues to the secure an advanced vision for
21 education fund created in [section 423F.2](#). This paragraph is
22 repealed ~~December 31, 2029~~ January 1, 2050.

23 Sec. 5. Section 423F.2, subsection 3, Code 2018, is amended
24 to read as follows:

25 3. a. The moneys available in a fiscal year in the secure
26 an advanced vision for education fund shall be distributed by
27 the department of revenue to each school district on a per
28 pupil basis calculated using each school district's budget
29 enrollment, as defined in [section 257.6](#), for that fiscal year.

30 b. (1) Prior to distribution of moneys in the secure an
31 advanced vision for education fund to school districts, ~~two and~~
32 ~~one-tenths percent of the moneys available in a~~ an amount equal
33 to the equity transfer amount for the fiscal year shall be
34 distributed and credited to the property tax equity and relief
35 fund created in [section 257.16A](#).

1 (2) For purposes of this subsection, the equity transfer
2 amount is determined by multiplying the equity transfer
3 percentage by the amount of moneys available in the secure an
4 advanced vision for education fund in the fiscal year.

5 (a) For the fiscal year beginning July 1, 2017, the equity
6 transfer percentage is two and one-tenths percent.

7 (b) For each fiscal year beginning on or after July 1, 2018,
8 the equity transfer percentage is equal to the equity transfer
9 percentage for the immediately preceding fiscal year, unless
10 the amount of moneys available in the secure an advanced vision
11 for education fund in the fiscal year equals or exceeds one
12 hundred two percent of the amount of moneys available in the
13 fund for the immediately preceding fiscal year, in which case
14 the equity transfer percentage shall be the equity transfer
15 percentage for the immediately preceding fiscal year plus one
16 percent subject to the limitation in subparagraph division (c).

17 (c) If the equity transfer percentage calculated under
18 subparagraph division (b) exceeds ten percent, the equity
19 transfer percentage for that fiscal year shall be ten percent.

20 Sec. 6. Section 423F.3, subsection 3, paragraph b, Code
21 2018, is amended to read as follows:

22 b. (1) If the board of directors intends to use funds for
23 purposes other than those listed in paragraph "a", or change the
24 use of funds to purposes other than those listed in paragraph
25 "a", the board shall adopt a revenue purpose statement or amend
26 an existing revenue purpose statement, subject to approval of
27 the electors, listing the proposed use of the funds. School
28 ~~districts shall submit the statement to the voters no later~~
29 ~~than sixty days prior to the expiration of any existing revenue~~
30 ~~purpose statement or change in use not included in the existing~~
31 ~~revenue purpose statement.~~

32 (2) (a) Notwithstanding any provision of law to the
33 contrary, for each school district with an existing revenue
34 purpose statement for the use of revenues from the secure an
35 advanced vision for education fund adopted under this paragraph

1 or adopted under another provision of law before July 1, 2018,
 2 such revenue purpose statement shall terminate and be of no
 3 further force and effect on January 1, 2023. If such a school
 4 district intends to use funds for purposes other than those
 5 listed in paragraph "a" and does not intend to operate without
 6 a revenue purpose statement on or after January 1, 2023, the
 7 board of directors shall submit a revenue purpose statement for
 8 approval by the electors under subparagraph (1) on or after
 9 July 1, 2018, and such revenue purpose statement submitted
 10 to the electors shall include all proposed uses including
 11 those previously approved by the electors, if applicable. A
 12 revenue purpose statement submitted to the electors under this
 13 subparagraph shall also include a statement on the ballot,
 14 which shall be in substantially the following form:
 15 If a majority of eligible electors voting on the question fail
 16 to approve this revenue purpose statement, revenues received
 17 by the school district from the secure an advanced vision
 18 for education fund shall first be expended for
 19 (State the purposes in the order listed in subsection 1 of
 20 this section for which the revenues received by the school
 21 district under this chapter will be expended based on the bonds
 22 outstanding and levies in effect for the school district on the
 23 date of the election.)

24 (b) If a revenue purpose statement is terminated under the
 25 provisions of this subparagraph, such termination shall not
 26 affect the validity of or a first lien on bonds issued under
 27 section 423E.5, Code 2018, or section 423F.5 prior to January
 28 1, 2023, or the validity of a contract or other obligation of
 29 the school district secured in whole or in part by or requiring
 30 the payment of funds received under this chapter in effect
 31 prior to January 1, 2023.

32 Sec. 7. Section 423F.3, subsection 5, unnumbered paragraph
 33 1, Code 2018, is amended to read as follows:

34 A school district with a certified enrollment of fewer
 35 than ~~two~~ three hundred fifty pupils in the entire district or

1 certified enrollment of fewer than one hundred forty pupils
 2 in high school shall not expend the amount received for new
 3 construction without prior application to the department of
 4 education and receipt of a certificate of need pursuant to
 5 this subsection. A certificate of need is not required for
 6 repairing schoolhouses or buildings, equipment, technology, or
 7 transportation equipment for transporting students as provided
 8 in section 298.3, or for construction necessary for compliance
 9 with the federal Americans With Disabilities Act pursuant to 42
 10 U.S.C. §12101 – 12117. In determining whether a certificate of
 11 need shall be issued or denied, the department shall consider
 12 all of the following:

13 Sec. 8. Section 423F.3, subsection 5, paragraph b, Code
 14 2018, is amended to read as follows:

15 **b.** The infeasibility cost-benefit analysis of remodeling,
 16 reconstructing, or repairing existing buildings.

17 Sec. 9. Section 423F.3, subsection 5, Code 2018, is amended
 18 by adding the following new paragraph:

19 NEW PARAGRAPH. **i.** Benefits and effects of the new
 20 construction on student learning.

21 Sec. 10. Section 423F.3, Code 2018, is amended by adding the
 22 following new subsection:

23 NEW SUBSECTION. 6A. **a.** Prior to approving the use
 24 of revenues received under this chapter for an athletic
 25 facility infrastructure project within the scope of the
 26 school district's approved revenue purpose statement or
 27 pursuant to subsection 4 for a school district without an
 28 approved revenue statement, the board of directors shall adopt
 29 a resolution setting forth the proposal for the athletic
 30 facility infrastructure project and hold an additional public
 31 hearing on the issue of construction of the athletic facility.
 32 Notice of the time and place of the public hearing shall be
 33 published not less than ten nor more than twenty days before
 34 the public hearing in a newspaper which is a newspaper of
 35 general circulation in the school district. If at any time

1 prior to the fifteenth day following the hearing, the secretary
2 of the board of directors receives a petition containing the
3 required number of signatures and asking that the question
4 of the approval of the use of revenues for the athletic
5 facility infrastructure project be submitted to the voters
6 of the school district, the board of directors shall either
7 rescind the board's resolution for the use of revenues for
8 the athletic facility infrastructure project or direct the
9 county commissioner of elections to submit the question to the
10 registered voters of the school district at an election held
11 on a date specified in section 39.2, subsection 4, paragraph
12 "c". The petition must be signed by eligible electors equal
13 in number to not less than one hundred or thirty percent of
14 the number of voters at the last preceding regular school
15 election, whichever is greater. If a majority of those
16 voting on the question favors the use of the revenues for the
17 athletic facility infrastructure project, the board shall be
18 authorized to approve such use by resolution of the board. If
19 a majority of those voting on the question does not favor the
20 use of the revenues for the athletic facility infrastructure
21 project, the board of directors shall rescind the board's
22 resolution for the use of revenues for the athletic facility
23 infrastructure project. If a petition is not received by the
24 board of directors within the prescribed time period, the board
25 of directors may approve the use of revenues for the athletic
26 facility infrastructure project without voter approval.

27 **b.** After fourteen days from the date of the hearing under
28 paragraph "a" or fourteen days after the date of the election
29 held under paragraph "a", if applicable, whichever is later, an
30 action shall not be brought questioning the board of directors'
31 authority to use funds for the athletic facility infrastructure
32 project or questioning the legality of any proceedings in
33 connection with the authorization of such use.

34 **c.** For purposes of this subsection:

35 (1) "*Athletic facility*" means a building or structure, or

1 portion thereof, that is not physically attached to a student
2 attendance center.

3 (2) "*Athletic facility infrastructure project*" means a school
4 infrastructure project that includes in whole or in part the
5 construction of an athletic facility.

6 (3) "*Construction*" does not include replacement, upgrade,
7 repair, or maintenance of an existing facility.

8 Sec. 11. Section 423F.4, Code 2018, is amended to read as
9 follows:

10 **423F.4 Borrowing authority for school districts.**

11 1. A Subject to the conditions established under subsection
12 2, a school district may anticipate its share of the revenues
13 under section 423F.2 by issuing bonds in the manner provided in
14 section 423E.5, Code 2018. However, to the extent any school
15 district has issued bonds anticipating the proceeds of an
16 extended local sales and services tax for school infrastructure
17 purposes imposed by a county pursuant to former chapter 423E,
18 Code and Code Supplement 2007, prior to July 1, 2008, the
19 pledge of such revenues for the payment of principal and
20 interest on such bonds shall be replaced by a pledge of its
21 share of the revenues under section 423F.2.

22 2. a. Bonds issued on or after July 1, 2018, shall not be
23 sold at public sale as provided in chapter 75, or at a private
24 sale, without notice and hearing. Notice of the time and place
25 of the public hearing shall be published not less than ten nor
26 more than twenty days before the public hearing in a newspaper
27 which is a newspaper of general circulation in the school
28 district.

29 b. For bonds subject to the requirements of paragraph
30 "a", if at any time prior to the fifteenth day following the
31 hearing, the secretary of the board of directors receives a
32 petition containing the required number of signatures and
33 asking that the question of the issuance of such bonds be
34 submitted to the voters of the school district, the board shall
35 either rescind its adoption of the resolution or direct the

1 county commissioner of elections to submit the question to the
 2 registered voters of the school district at an election held
 3 on a date specified in section 39.2, subsection 4, paragraph
 4 "c". The petition must be signed by eligible electors equal in
 5 number to not less than one hundred or thirty percent of the
 6 number of voters at the last preceding regular school election,
 7 whichever is greater. If the board submits the question at an
 8 election and a majority of those voting on the question favors
 9 issuance of the bonds, the board shall be authorized to issue
 10 the bonds.

11 c. After fourteen days from the date of the hearing under
 12 paragraph "a" or fourteen days after the date of the election
 13 held under paragraph "b", if applicable, whichever is later,
 14 an action shall not be brought questioning the legality of
 15 any bonds or the power of the authority to issue any bonds
 16 or to the legality of any proceedings in connection with the
 17 authorization or issuance of the bonds.

18 Sec. 12. Section 423F.6, Code 2018, is amended to read as
 19 follows:

20 **423F.6 Repeal.**

21 This chapter is repealed ~~December 31, 2029~~ January 1, 2050.

22 Sec. 13. STATE MANDATE FUNDING SPECIFIED. In accordance
 23 with section 25B.2, subsection 3, the state cost of requiring
 24 compliance with any state mandate included in this Act shall
 25 be paid by a school district from state school foundation aid
 26 received by the school district under section 257.16. This
 27 specification of the payment of the state cost shall be deemed
 28 to meet all of the state funding-related requirements of
 29 section 25B.2, subsection 3, and no additional state funding
 30 shall be necessary for the full implementation of this Act
 31 by and enforcement of this Act against all affected school
 32 districts.

33 **EXPLANATION**

34 The inclusion of this explanation does not constitute agreement with
 35 the explanation's substance by the members of the general assembly.

1 Code section 423.2 imposes a state tax of 6 percent upon
2 the sales price of all sales of tangible personal property,
3 consisting of goods, wares, merchandise, and other items
4 designated by statute, sold at retail in the state to consumers
5 or users, except as otherwise provided by Code chapter 423.
6 Generally, by operation of law, a sale subject to the sales
7 tax is also subject to the use tax. Following the transfer
8 of amounts required by statute, if applicable, one-sixth of
9 the remaining state sales tax revenue from the 6 percent tax
10 is transferred to the secure an advanced vision for education
11 (SAVE) fund created in Code section 423F.2. Moneys in the SAVE
12 fund are allocated to school districts on a per pupil basis to
13 be used for infrastructure and property tax reduction purposes
14 specified in Code chapter 423F. Under current law, the sales
15 tax rate of 6 percent is reduced to 5 percent on January 1,
16 2030, and Code chapter 423F, along with other corresponding
17 provisions, is repealed December 31, 2029.

18 This bill extends the 6 percent sales tax rate, the
19 allocation to the SAVE fund, and the statutory repeal of Code
20 chapter 423F until January 1, 2050.

21 Code section 423F.2 provides that prior to distribution of
22 SAVE revenues to school districts, 2.1 percent of the moneys
23 available in the SAVE fund are distributed and credited to
24 the property tax equity and relief (PTER) fund to be used for
25 additional property tax levy aid. The bill provides that
26 for each fiscal year beginning on or after July 1, 2018, the
27 percentage used to determine the amount of the transfer from
28 the SAVE fund to the PTER fund is equal to the percentage for
29 the immediately preceding fiscal year, unless the amount of
30 money available in the SAVE fund in the fiscal year is equal to
31 or exceeds 102 percent of the amount of money available in the
32 SAVE fund for the immediately preceding fiscal year, in which
33 case the percentage shall be the percentage for the immediately
34 preceding fiscal year plus 1 percent. However, the bill caps
35 the percentage at 10 percent.

1 Under the bill, revenue purpose statements for the use of
2 SAVE fund revenues adopted before July 1, 2018, shall terminate
3 and be of no further force and effect on January 1, 2023.
4 If a school district intends to use SAVE fund revenues for
5 purposes other than those which can be approved by the school
6 board alone and does not intend to operate without a revenue
7 purpose statement on or after January 1, 2023, the school
8 board must submit a revenue purpose statement for approval
9 by the electors on or after July 1, 2018, and such revenue
10 purpose statement submitted to the electors shall include
11 all proposed uses including those previously approved by the
12 electors, if applicable. The bill specifies that if a revenue
13 purpose statement is terminated on January 1, 2023, under the
14 provisions of the bill, such termination shall not affect the
15 validity of or a first lien on bonds issued under Code sections
16 423E.5 and 423F.5 prior to January 1, 2023, or the validity
17 of a contract or other obligation of the school district
18 secured in whole or in part by or requiring the payment of SAVE
19 revenues in effect prior to January 1, 2023.

20 The bill provides that prior to approving the use of SAVE
21 revenues for an athletic facility infrastructure project
22 that is defined in the bill to mean a school infrastructure
23 project that includes in whole or in part, the construction
24 of an athletic facility, the board of directors must first
25 hold an additional public hearing on the issue of the athletic
26 facility. The bill defines "athletic facility" to mean
27 a building or structure, or portion thereof, that is not
28 physically attached to a student attendance center. If at any
29 time prior to the 15th day following the hearing, the secretary
30 of the board of directors receives a petition containing the
31 required number of signatures and asking that the question of
32 the approval of the use of revenues for the athletic facility
33 infrastructure project be submitted to the voters of the school
34 district, the board of directors shall either rescind the
35 resolution for use of SAVE revenues for the athletic facility

1 infrastructure project or direct the county commissioner of
2 elections to submit the question to the registered voters of
3 the school district. If a majority of those voting on the
4 question favors the use of the SAVE revenues for the athletic
5 facility infrastructure project, the board shall be authorized
6 to approve such use by resolution of the board. If a majority
7 of those voting on the question does not favor the use of the
8 SAVE revenues for the school infrastructure project, the board
9 of directors shall rescind the board's resolution for use of
10 SAVE revenues for the athletic facility infrastructure project.
11 If a petition is not received by the board of directors
12 within the prescribed time period, the board of directors may
13 approve the use of SAVE revenues for the athletic facility
14 infrastructure project without voter approval. The bill also
15 establishes limitations on the period of time to bring an
16 action to question the authority to use funds for such purpose
17 or the legality of any proceedings in connection with the
18 authorization of such use.

19 Current law authorizes a school district to anticipate
20 its share of SAVE fund revenues by issuing bonds without
21 voter approval. The bill provides that revenue bonds issued
22 on or after July 1, 2018, shall not be sold at public sale
23 or at a private sale without notice and a public hearing.
24 Additionally, if at any time prior to the 15th day following
25 the hearing, the secretary of the board of directors receives
26 a petition containing the required number of signatures and
27 asking that the question of the issuance of such bonds be
28 submitted to the voters of the school district, the school
29 board shall either rescind its adoption of the resolution or
30 direct the county commissioner of elections to submit the
31 question to the registered voters of the school district. The
32 petition must be signed by eligible electors equal in number to
33 not less than 100 or 30 percent of the number of voters at the
34 last preceding regular school election, whichever is greater.
35 If the school board submits the question at an election and a

1 majority of those voting on the question favors issuance of the
2 bonds, the board shall be authorized to issue the bonds. The
3 bill also places limitations on the period of time during which
4 an action questioning the legality or procedural compliance for
5 the issuance of such bonds may be brought.

6 Currently, a school district with a certified enrollment
7 of fewer than 250 pupils in the entire district or certified
8 enrollment of fewer than 100 pupils in high school must apply
9 to the department of education for a certificate of need
10 before the school district can expend the supplemental school
11 infrastructure amount received for new construction or for
12 payments for bonds issued for new construction against the
13 supplemental school infrastructure amount. The bill increases
14 the enrollment thresholds to a total enrollment of 350 pupils
15 and to a high school enrollment of 140 pupils.

16 The bill also modifies the criteria to be used by the
17 department of education in determining whether to issue a
18 certificate of need to include the cost-benefit analysis of
19 remodeling, reconstructing, or repairing existing buildings
20 versus new construction and consideration of the benefit of the
21 new construction on student learning.

22 The bill may include a state mandate as defined in Code
23 section 25B.3. The bill requires that the state cost of
24 any state mandate included in the bill be paid by a school
25 district from state school foundation aid received by the
26 school district under section 257.16. The specification is
27 deemed to constitute state compliance with any state mandate
28 funding-related requirements of Code section 25B.2. The
29 inclusion of this specification is intended to reinstate the
30 requirement of political subdivisions to comply with any state
31 mandates included in the bill.